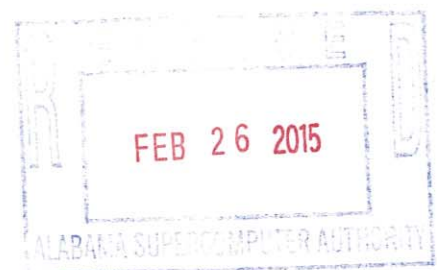


Kim Carroll
Alabama Supercomputer Authority
401 Adams Avenue, Suite 764
Montgomery, AL 36130-9553

Billed Entity Number: 198892
Form 471 Application Number: 771989
Form 486 Application Number:





Universal Service Administrative Company
Schools & Libraries Division

Administrator's Decision on Appeal – Funding Year 2011-2012

February 20, 2015

Catherine Cruzan
Funds for Learning, LLC
2575 Kelley Pointe Parkway, Suite 200
Edmond, OK 73013

Re: Applicant Name: ALABAMA SUPERCOMPUTER
AUTHORITY
Billed Entity Number: 198892
Form 471 Application Number: 771989
Funding Request Number(s): 2221697, 2221705
Your Correspondence Dated: December 19, 2014

After thorough review and investigation of all relevant facts, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) has made its decision in regard to your appeal of USAC's Funding Year 2011 Notification of Improperly Disbursed Funds Recovery Letter for the Application Number indicated above. This letter explains the basis of USAC's decision. The date of this letter begins the 60 day time period for appealing this decision. If your Letter of Appeal included more than one Application Number, please note that you will receive a separate letter for each application.

Funding Request Number(s): 2221697, 2221705
Decision on Appeal: **Denied**
Explanation:

- During an audit of FRN 2221697, it has been determined that funds were improperly disbursed for this funding request. Services were installed or delivered to Alabama School of Fine Arts, BEN 39157 and Alabama School of Math and Science, BEN 40452. Portions of these entities are ineligible to receive E-rate discounts. FCC rules require that discounts are to be provided only to entities eligible to receive funding. During an audit it was determined that Internet Access services were provided to these entities that have residential areas within their schools. Services to residential facilities are not eligible. Since services were delivered to an ineligible entity, the program rules have been violated. Accordingly, USAC will seek recovery of \$2,082.00 of improperly disbursed funds from the applicant. On the appeal review, you failed to provide

adequate documentation to support a \$0 cost allocation for the ineligible locations/areas.

During an audit of FRN 2221705, it has been determined that funds were improperly disbursed for this funding request. Services were installed or delivered to Alabama School of Fine Arts, BEN 39157 and Alabama School of Math and Science, BEN 40452. Portions of these entities are ineligible to receive E-rate discounts. FCC rules require that discounts are to be provided only to entities eligible to receive funding. During an audit it was determined that Internet Access services were provided to these entities that have residential areas within their schools. Services to residential facilities are not eligible. Since services were delivered to an ineligible entity, the program rules have been violated. Accordingly, USAC will seek recovery of \$1,570.00 of improperly disbursed funds from the applicant. On the appeal review, you failed to provide adequate documentation to support a \$0 cost allocation for the ineligible locations/areas.

Since your appeal was denied in full, dismissed or cancelled, you may file an appeal with the FCC. Your appeal must be postmarked within 60 days of the date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found under the Reference Area/"Appeals" of the SLD section of the USAC website or by contacting the Client Service Bureau. We strongly recommend that you use the electronic filing options.

We thank you for your continued support, patience and cooperation during the appeal process.

Schools and Libraries Division
Universal Service Administrative Company

David Ivey
Computer Sciences Corporation
310 The Bridge Street
Huntsville, AL 35806



Demand Payment Letter
Funding Year 2011: July 1, 2011 - June 30, 2012

February 20, 2015

Kim Carroll
ALABAMA SUPERCOMPUTER AUTHORITY
401 ADAMS AVENUE, SUITE 764
MONTGOMERY, AL 36130 9553

Re: Form 471 Application Number:	771989
Funding Year:	2011
Applicant's Form Identifier:	ACCESS-ASA YR14
Billed Entity Number:	198892
FCC Registration Number:	0011596681
SPIN:	143024093
Service Provider Name:	Computer Sciences Corporation
Service Provider Contact Person:	David Ivey
Payment Due By:	03/22/2015

You were recently sent a Notification of Improperly Disbursed Funds Recovery Letter informing you of the need to recover funds from you for the Funding Request Number(s) (FRNs) listed on the Funding Disbursement Recovery Report (Report) of that letter. A copy of that Report is also attached to this letter.

The balance of this debt is due within 30 days from the date of this letter. Failure to pay the debt within 30 days from the date of this letter could result in interest, late payment fees, administrative charges, and implementation of the "Red Light Rule." The FCC's Red Light Rule requires USAC to dismiss pending FCC Form 471 applications if the entity responsible for paying the outstanding debt has not paid the debt, or otherwise made satisfactory arrangements to pay the debt within 30 days of the notice provided by USAC. For more information on the Red Light Rule, please see "Red Light Frequently Asked Questions (FAQs)" posted on the FCC website at http://www.fcc.gov/debt_collection/faq.html.

If the Universal Service Administrative Company (USAC) has determined that both the applicant and the service provider are responsible for a Program rule violation, then, pursuant to the Order on Reconsideration and Fourth Report and Order (FCC 04-181), the USAC will seek recovery of the improperly disbursed amount from BOTH parties and will continue to seek recovery until either or both parties have fully paid the debt. If USAC has determined that both the applicant and the service provider are responsible for a Program rule violation, this was indicated in the Disbursed Funds Recovery Explanation on the Funding Disbursement Recovery Report.

If USAC is attempting to collect all or part of the debt from both the applicant and the service provider, then you should work with your service provider to determine who will be repaying the debt to avoid duplicate payment.

Please note, however, that the debt is the responsibility of both the applicant and service provider. Therefore, you are responsible for ensuring that the debt is paid in a timely manner.

Please remit payment for the full "Funds to be Recovered from Applicant" amount shown in the Report. To ensure that your payment is properly credited, please include a copy of the Report with your check. Make your check payable to the Universal Service Administrative Company (USAC).

If sending payment by U. S. Postal Service or major courier service (e.g. Airborne, FedEx, and UPS) please send check payments to:

Universal Service Administrative Company
Lock Box 105056
1075 Loop Road
Atlanta, GA 30337
Phone: 404-209-6377

Local messenger service should deliver to the Lockbox Receiving Window at the above address.

Payment is due within 30 days from the date of this letter.

Complete Program information is posted to the SLD section of the USAC website at www.usac.org/sl/. You may also contact the SLD Client Service Bureau by email using the "Submit a Question" link on the SLD website, by fax at 1-888-276-8736 or by phone at 1-888-203-8100.

Universal Service Administrative Company
Schools and Libraries Division

cc: *David Ivey*
Computer Sciences Corporation

Funding Disbursement Recovery Report
Form 471 Application Number: 771989

Funding Request Number: 2221697
Services Ordered: INTERNET ACCESS
SPIN: 143024093
Service Provider Name: Computer Sciences Corporation
Contract Number: C00910050
Billing Account Number:
Site Identifier: 198892
Funding Commitment: \$1,601,548.24
Funds Disbursed to Date: \$1,059,371.97
Funds to be Recovered from Applicant: \$2,082.00
Disbursed Funds Recovery Explanation:

During an audit it has been determined that funds were improperly disbursed for this funding request. Services were installed or delivered to Alabama School of Fine Arts, BEN 39157 and Alabama School of Math and Science, BEN 40452. Portions of these entities are ineligible to receive E-rate discounts. FCC rules require that discounts are to be provided only to entities eligible to receive funding. During an audit it was determined that Internet Access services were provided to these entities that have residential areas within their schools. Services to residential facilities are not eligible. Since services were delivered to an ineligible entity, the program rules have been violated. Accordingly, USAC will seek recovery of \$2,082.00 of improperly disbursed funds from the applicant.

PLEASE SEND A COPY OF THIS PAGE WITH YOUR
CHECK TO ENSURE TIMELY PROCESSING

Funding Request Number: 2221705
Services Ordered: INTERNET ACCESS
SPIN: 143024093
Service Provider Name: Computer Sciences Corporation
Contract Number: C00910050
Billing Account Number:
Site Identifier: 198892
Funding Commitment: \$858,753.15
Funds Disbursed to Date: \$798,710.11
Funds to be Recovered from Applicant: \$1,570.00
Disbursed Funds Recovery Explanation:


During an audit, it has been determined that funds were improperly disbursed for this funding request. Services were installed or delivered to Alabama School of Fine Arts, BEN 39157 and Alabama School of Math and Science, BEN 40452. Portions of these entities are ineligible to receive E-rate discounts. FCC rules require that discounts are to be provided only to entities eligible to receive funding. During an audit it was determined that Internet Access services were provided to these entities that have residential areas within their schools. Services to residential facilities are not eligible. Since services were delivered to an ineligible entity, the program rules have been violated. Accordingly, USAC will seek recovery of \$1,570.00 of improperly disbursed funds from the applicant.

PLEASE SEND A COPY OF THIS PAGE WITH YOUR
CHECK TO ENSURE TIMELY PROCESSING

AFFIDAVIT

I, Kim Carroll, hereby declare and affirm that the following statements are true and correct.

1. I am over 18 years of age and competent to testify to the matters described herein.
2. I am employed by the Alabama Supercomputer Authority ("ASA"). My title is Chief Fiscal Officer.
3. ASA operates the statewide Alabama Research and Education Network ("AREN").
4. AREN provides a base level of Internet access for free to all public K-12 schools in the state of Alabama.
5. For E-rate Funding Year 2011 ("FY 2011"), ASA as the consortium lead and billed entity applied for and received E-rate discounts on the cost of providing Internet access to all public schools in the state of Alabama. On behalf of ASA, I prepared and filed the application.
6. In FY 2011, the Alabama School of Fine Arts ("ASFA") and the Alabama School of Math and Science ("ASMS") were among the schools that received E-rate discounted, base-level Internet access via AREN. Both schools have residential areas.
7. The base-level Internet access that ASFA and ASMS received in FY 2011 was the minimum amount that each school required to provide reasonably robust Internet access to the eligible areas of their respective schools for instructional and other educational purposes.
8. If ASFA and ASMS students could not access the Internet from the residential area of their school via the same local area network that provided Internet access elsewhere on school property, both schools still would have required the exact same amount of base-level Internet connectivity via AREN.
9. For FY 2011, the prediscount cost of providing base-level, Internet access to ASFA and ASMS was the same at each school -- \$17,977.
10. If it had been impossible to access this base-level of service from the residential areas of ASFA and ASMS, the prediscount cost to each school for the base-level of Internet access required at each school would have been exactly the same -- \$17,977.
11. Therefore, in FY 2011, the incremental cost of providing Internet access via AREN to the residential areas of ASFA and ASMS was zero.


SIGNATURE

12/11/2014
DATE

WITNESS:

Signature: 

Print Name: Debra Wallace

Date: 12/11/14

December 19, 2014

Via e-mail: appeals@sl.universalservice.org

Letter of Appeal - USAC
Schools and Libraries Division - Correspondence Unit
Parsippany, NJ

LETTER OF APPEAL
of
USAC Notification of Improperly Disbursed Funds Recovery Letter
Dated: November 21, 2014

Appellant: Alabama Supercomputer Authority ("ASA")
Entity #: 198892
FCC Registration #: 0011596681
Funding Year: 2011
FRNs: 2221697 and 2221705
Form 471: 771989
Service Provider: Computer Sciences Corporation (SPIN: 143024093)

Letter of Appeal Contact: Catherine Cruzan
President
Funds For Learning, LLC
2575 Kelley Pointe Parkway
Suite 200
Edmond, OK 73013
ccruzan@fundsforlearning.com
(405) 341-4140

Appellant's Contact: Kim Carroll
kcarroll@asc.edu

Appellant's LOA: Pursuant to the agency authority granted to Funds For Learning, LLC (FFL) by Alabama Supercomputer Authority ("ASA"), which USAC has on file, FFL is authorized to prepare and file this appeal and to discuss any matter related to it. Therefore, if USAC has questions or requires additional information, please contact Catherine Cruzan, the Letter of Appeal contact designated above.

USAC's Decision¹

FRN 2221697

Disbursed Funds Recovery Explanation:

During an audit it has been determined that funds were improperly disbursed for this funding request. Services were installed or delivered to Alabama School of Fine Arts, BEN 39157 and Alabama School of Math and Science, BEN 40452. Portions of these entities are ineligible to receive E-rate discounts. FCC rules require that discounts are to be provided only to entities eligible to receive funding. During an audit it was determined that Internet Access services were provided to these entities that have residential areas within their schools. Services to residential facilities are not eligible. Since services were delivered to an ineligible entity, the program rules have been violated. Accordingly, USAC will seek recovery of \$2,082.00 of improperly disbursed funds from the applicant.

FRN 2221705

Disbursed Funds Recovery Explanation:

During an audit, it has been determined that funds were improperly disbursed for this funding request. Services were installed or delivered to Alabama School of Fine Arts, BEN 39157 and Alabama School of Math and Science, BEN 40452. Portions of these entities are ineligible to receive E-rate discounts. FCC rules require that discounts are to be provided only to entities eligible to receive funding. During an audit it was determined that Internet Access services were provided to these entities that have residential areas within their schools. Services to residential facilities are not eligible. Since services were delivered to an ineligible entity, the program rules have been violated. Accordingly, USAC will seek recovery of \$1,570.00 of improperly disbursed funds from the applicant.

¹ Exhibit 1, USAC's Notification of Improperly Disbursed Funds Notification Letter.

FACTS

The Alabama Supercomputer Authority (“ASA”) operates the statewide Alabama Research and Education Network (“AREN”). For E-rate Funding Year 2011 (“FY 2011”), ASA as the consortium lead and billed entity, applied for and received E-rate discounts on the cost of providing Internet access to all public schools in the state of Alabama. In FY 2011, the Alabama School of Fine Arts (“ASFA”) and the Alabama School of Math and Science (“ASMS”) were among the schools that received E-rate discounted, base-level Internet access via AREN.²

One of ASFA’s three floors and one building on the ASMS campus are residential. As discussed in more detail below, the incremental cost of providing Internet access to students in the residential areas of those two schools was zero.³ That was what it would have cost to provide Internet access to the public after school at those two schools, which would have been perfectly acceptable under program rules.⁴ To make Internet access more ubiquitous and affordable, the Commission encourages schools to provide Internet access to the public in this fashion, so long as students get first priority in the use of their school’s discounted services. Here, in terms of the schools giving priority Internet access to students on school property -- both during the day and outside of school hours -- the facts speak for themselves.

Nevertheless, a USAC audit report dated August 21, 2014 found that ASA received some FY 2011 E-rate support for Internet access improperly, because students at ASFA and ASMS could access the Internet from their dormitories via AREN.⁵ For reasons we still do not understand, it did not appear to sway the auditor or USAC in the least that providing Internet access to students on school property when they were not in school was conceptually identical to schools providing Internet access to the general public on school property when school was not in session and, moreover, that the former provided an even more compelling case for eligibility than the latter.

² Exhibit 2, Affidavit of Kim Carroll (“KC Affidavit”).

³ KC Affidavit at paras. 7 – 11.

⁴ See *In the Matter of Schools & Libraries Universal Service Support Mechanism, A National Broadband Plan for Our Future, Sixth Report and Order*, CC Docket No. 02-6, GN Docket No. 09-51, FCC 10-175, 25 FCC Rcd. 18762, 18778, para. 22 (2010) (“*Sixth Report and Order*”) (“We conclude that we should revise our rules to permanently allow schools to open their facilities, when classes are not in session, to the general public to utilize services and facilities supported by E-rate. ... schools must primarily use services funded under the E-rate program, in the first instance, for educational purposes. To primarily use services supported by E-rate, E-rate recipients must ensure that students always get first priority in use of the schools’ resources.”).

⁵ Exhibit 3, Independent Auditor’s Report on ASA’s Compliance with Schools and Libraries Support mechanism Rules (USAC Audit No. SL2013BE015) (“Audit Report”).

Instead, citing the *Sixth Report and Order*, which listed the kinds of residential schools that could receive E-rate discounts on Internal Connections in residential areas, the auditor decided that the list applied equally to Internet access. As the residential areas in ASFA and ASMS did not qualify for Internal Connections support, it followed, so far as the auditor and USAC were concerned, that the two schools did not qualify for Internet Access in their residential areas either, and that was that. Their analysis abruptly ended there.

Next, the auditor assumed that allowing students to access the Internet via AREN from their living quarters had to cost something. So the auditor insisted that ASA divide up what it cost ASA to provide Internet access to each school into two parts: the cost of providing it to residential areas and the cost of providing it everywhere else.

What the auditor failed to take into account, however, was the reality of the situation, which was that the incremental cost of delivering Internet access to the residential area in each school was zero.⁶ What neither the auditor nor USAC considered, which was indeed the case, was the possibility that giving students the opportunity to access the Internet via AREN from their dorm rooms might cost ASA not one penny more than it did for ASA to provide Internet access to those students everywhere else on school property. Instead, and even though it was wrong under the circumstances to do so, the auditor gave ASA no choice but to assign some of each school's cost for Internet access to the residential area at each school.

Thus ASA divided up the cost by floors for ASFA (one of three floors residential -33% ineligible) and for ASMS it divided up the cost by square feet (63,755 of 182,697 square feet residential - 34.90% ineligible). In reality though, the allocation should have been 0% for ineligible services, since it is a fact that the cost to ASA of providing Internet access to students at both schools would be exactly the same, whether students could access AREN from their residential areas – or not.⁷

ASA strongly disagreed with the auditor's finding, noting, among other things, that it was totally at odds with the Commission's policy of encouraging schools to share their E-rate supported Internet access with their local communities, when it would not add cost or interfere with their students' access.⁸ ASA contended too that the *Sixth Report and Order*, by making it possible for certain residential schools to receive discounts on Internal Connections did not restrict, but rather, expanded the scope of eligible services previously available to residential schools.

⁶ KC Affidavit at paras. 7 – 11.

⁷ KC Affidavit at para. 8.

⁸ See the Beneficiary's Response in the Audit Report (Exhibit 3), pp. 7 – 15.

On November 21, 2014, USAC adopted the auditor's findings and began the process of recovering funds.⁹

DISCUSSION

I. Providing E-rate-discounted Internet access to the residential areas of two eligible schools did not violate program rules.

A. See Beneficiary's Response to Auditor's Findings.

USAC did not disburse funds improperly to ASA for a portion of the E-rate discounted Internet service it provided to ASFA and ASMS via AREN. For all of the reasons set forth and discussed in detail in the Beneficiary's Response to the USAC Auditor's Findings, ASA contends that providing discounted Internet access to residential areas located on otherwise eligible school property – i.e., a residential floor in a school building or a residential facility on a school campus -- does not violate program rules.¹⁰

B. USAC Should Have Applied the Community Use of Schools' E-rate Facilities and Services Rule.

The *Sixth Report and Order* gave schools permission to welcome the general public into their buildings during non-operating hours to use their E-rate-discounted Internet access. It made sense, the Commission decided, not to waste the Internet access that schools could provide to the community, at no additional cost, when school was not in session. Here, at no additional cost to the consortium's billed entity, ASA, ASFA and ASMS made it possible for their residential students to access the Internet from their living quarters whenever they were not in school. This access could only occur outside of school hours or if a student had a good reason to be absent. Therefore, access from there was eligible.

Take the case of ASFA for example. Community use rules would have made it okay for the public to use the school's discounted Internet access after hours on one of the building's instructional floors. That is why it was so surprising to hear the auditor and USAC say that it was not okay for the students at that school to access the same Internet connection from upstairs on the school's residential floor at the exact same time. If the auditor and USAC are correct, it would turn the Commission's community use rule on its head. It would be even sillier still if the community use rule prohibited residential school students from accessing their school's discounted service after school from wireless access points in their living quarters, but permitted it if the same students walked downstairs to an instructional floor late in the evening to access

⁹ See USAC's Notification of Improperly Disbursed Funds Notification Letter (Exhibit 1).

¹⁰ See Beneficiary's Response in the Audit Report (Exhibit 3).

their school's discounted service from wireless access points located there.

In short, it would be totally illogical and thus make absolutely no sense for the community access rule to allow the general public to take advantage of discounted Internet access on school property when school is not in session and it costs nothing extra to do so, but then, to turn around and not allow a school's own students to do the exact same thing at the exact same time at their very own school, when it costs nothing extra to let them do so. And that, we submit, is exactly why the community access rule does allow students to access the Internet from their school's residential areas.

This is perfectly consistent with the Commission decision in the *Sixth Report and Order* to fund Internal Connections in residential areas for only certain schools. Internal Connections and Internet Access raise two entirely different sets of issues so far as funding priority, cost, and the rules in general are concerned. Which is why it is entirely reasonable and consistent with the Commission's community access and other rules to allow students to access the Internet from their school's living quarters when it costs nothing extra to do so, but not to fund Internal Connections to the same area in every case, as it definitely will cost money to purchase and install new wiring and equipment there.

Since the evidence shows that it cost ASA nothing extra to enable students at ASFA and ASMS to access the Internet from their school's residential areas,¹¹ the Internet access they received in those areas was eligible under the Commission's Community Use of Schools' E-rate Facilities and Services Rule. Therefore, we respectfully request that USAC reverse its decision for this reason.

II. USAC's Monetary Finding is Incorrect -- It Should Have Been \$0.00.

Assuming for argument's sake that it is a violation of program rules to provide discounted Internet access to the residential area of an eligible school, a violation such as that is merely technical and of no monetary consequence, where, as here, the incremental cost of providing the service to the residential area is zero. If it costs nothing to provide an eligible service, it follows that there is nothing to subsidize. And when there is nothing to subsidize, no E-rate funds can be spent.

The base-level Internet access that ASFA and ASMS received in FY 2011 was the minimum amount that each school required to provide reasonably robust Internet access to the

¹¹ KC Affidavit at paras. 10-11.

eligible areas of their respective schools for instructional and other educational purposes.¹² If ASFA and ASMS students could not access the Internet from their school's residential area via the same local area network that provided Internet access elsewhere on school property, both schools still would have required the exact same amount of base-level Internet connectivity via AREN.¹³ What that means, of course, is that what ASA paid for ASFA and ASMS students to access the Internet in the "eligible" areas of their schools in FY 2011 would not have been one penny less if the schools had gone through the time and expense of making it impossible for their students to access AREN from their living quarters at school.¹⁴ Therefore, in FY 2011, the incremental cost of providing Internet access via AREN to the residential areas of ASFA and ASMS was zero.¹⁵

Because it did not cost ASA anything extra to give students access to the Internet via AREN from their living quarters, no E-rate funds could have been used to bring Internet access to either school's residential area, which means that USAC did not improperly disburse E-rate funds to ASA. Consequently, there are no improperly disbursed funds to recover, and USAC should reverse its Notification of Improperly Disbursed Funds Recovery Letter for this reason.

III. If the Rules Require Cost Allocation, Even in Circumstances Like These, Then USAC Cost Allocated Incorrectly.

A. The Cost Allocation Should Have Been 0% Ineligible and 100% Eligible.

Since there was no cost associated with providing Internet access to either school's residential area, providing it there obviously cost the fund nothing, which means that there is nothing to cost allocate. Therefore, the cost allocation rules should not apply. If, however, the rules strictly require this exercise, then a reasonable cost allocation would be 0% for what it cost ASA to give students at ASFA and ASMS access to the Internet from their dormitories and 100% for what it cost ASA to provide Internet access everywhere else at those two schools.

B. Anything but a 0%/100% Cost Allocation Would Discriminate Unfairly Against Residential K-12 Schools.

Here, the cost of providing Internet access to the instructional and other undisputedly eligible areas of the residential schools would have been exactly the same, whether or not students could access the Internet from their school's residential area. If a residential school is required to cost allocate out a percentage of the total cost of Internet access to account for

¹² KC Affidavit at para. 7.

¹³ KC Affidavit at para. 8.

¹⁴ KC Affidavit at para. 10.

¹⁵ KC affidavit at para. 11.

residential use, even when there is zero cost associated with that use, the school's out-of pocket costs for Internet access to its eligible areas automatically go up, which means that the school does not receive the full benefit of the E-rate discount to which it is entitled under program rules.

What this means, therefore, is that slavishly insisting on applying cost allocation rules to residential schools in these circumstances discriminates between residential and non-residential schools that serve similar number of students in similar sized facilities, especially where the E-rate discount rates are the same. That is because, everything else being equal, it will always cost more out of pocket to provide Internet access to residential school students, where cost allocation is required to account for zero-cost, residential access, than it will to provide the exact same Internet access to students who attend non-residential schools. One school should NOT have to pay more money than another school for the exact same amount of Internet connectivity for no other reason than one school has dorm rooms in it and the other one does not.

Respectfully submitted *on behalf of*

Alabama Supercomputer Authority
/s/ Catherine Cruzan

Catherine Cruzan
President
Funds For Learning, LLC
2575 Kelley Pointe Parkway (Suite 200)
Edmond, OK 73013
ccruzan@fundsforlearning.com
404-431-4140

cc: Kim Carroll
kcarroll@asc.edu

Exhibit 1



Schools & Libraries Division

Notification of Improperly Disbursed Funds Recovery Letter
Funding Year 2011: July 1, 2011 - June 30, 2012

November 21, 2014

Kim Carroll
ALABAMA SUPERCOMPUTER AUTHORITY
401 ADAMS AVENUE, SUITE 764
MONTGOMERY, AL 36130 9553

Re: Form 471 Application Number: 771989
Funding Year: 2011
Applicant's Form Identifier: ACCESS-ASA YR14
Billed Entity Number: 198892
FCC Registration Number: 0011596681
SPIN: 143024093
SPIN Name: Computer Sciences Corporation
Service Provider Contact Person: David Ivey

Our routine review of Schools and Libraries Program (Program) funding commitments has revealed certain applications where funds were disbursed in violation of Program rules.

In order to be sure that no funds are used in violation of Program rules, the Universal Service Administrative Company (USAC) must now recover these improper disbursements. The purpose of this letter is to inform you of the recoveries as required by Program rules, and to give you an opportunity to appeal this decision. USAC has determined the applicant is responsible for all or some of the Program rule violations. Therefore, the applicant is responsible to repay all or some of the funds disbursed in error.

This is NOT a bill. The next step in the recovery of improperly disbursed funds process is for USAC to issue you a Demand Payment Letter. The balance of the debt will be due within 30 days of that letter. Failure to pay the debt within 30 days from the date of the Demand Payment Letter could result in interest, late payment fees, administrative charges and implementation of the "Red Light Rule." The FCC's Red Light Rule requires USAC to dismiss pending FCC Form 471 applications if the entity responsible for paying the outstanding debt has not paid the debt, or otherwise made satisfactory arrangements to pay the debt within 30 days of the notice provided by USAC. For more information on the Red Light Rule, please see "Red Light Frequently Asked Questions (FAQs)" posted on the FCC website at http://www.fcc.gov/debt_collection/faq.html.

Schools and Libraries Division - Correspondence Unit
100 South Jefferson Road, P.O. Box 902, Whippany, NJ 07981
Visit us online at: www.usac.org/sl

TO APPEAL THIS DECISION:

If you wish to appeal the Notification of Improperly Disbursed Funds Recovery decision indicated in this letter to USAC, your appeal must be received or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. In your letter of appeal:

1. Include the name, address, telephone number, fax number, and email address (if available) for the person who can most readily discuss this appeal with us.
2. State outright that your letter is an appeal. Identify the date of the Notification of Improperly Disbursed Funds Recovery Letter and the Funding Request Number(s) (FRNs) you are appealing. Your letter of appeal must include the
 - Billed Entity Name,
 - Form 471 Application Number,
 - Billed Entity Number, and
 - FCC Registration Number (FCC RN) from the top of your letter.
3. When explaining your appeal, copy the language or text from the Funding Disbursement Recovery Report that is the subject of your appeal to allow USAC to more readily understand your appeal and respond appropriately. Please keep your letter to the point, and provide documentation to support your appeal. Be sure to keep a copy of your entire appeal including any correspondence and documentation.
4. If you are an applicant, please provide a copy of your appeal to the service provider(s) affected by USAC's decision. If you are a service provider, please provide a copy of your appeal to the applicant(s) affected by USAC's decision.
5. Provide an authorized signature on your letter of appeal.

We strongly recommend that you use one of the electronic filing options. To submit your appeal to USAC by email, email your appeal to appeals@sl.universalservice.org or submit your appeal electronically by using the "Submit a Question" feature on the USAC website. USAC will automatically reply to incoming emails to confirm receipt.

To submit your appeal to us by fax, fax your appeal to (973) 599-6542.

To submit your appeal to us on paper, send your appeal to:

Letter of Appeal
Schools and Libraries Division - Correspondence Unit
30 Lanidex Plaza West
PO Box 685
Parsippany, NJ 07054-0685

For more information on submitting an appeal to USAC, please see "Appeals" in the "Schools and Libraries" section of the USAC website.

FUNDING DISBURSEMENT RECOVERY REPORT

On the pages following this letter, we have provided a Funding Disbursement Recovery Report (Report) for the Form 471 application cited above. The enclosed Report includes the Funding Request Number(s) from the application for which recovery is necessary. See the "Guide to USAC Letter Reports" posted at <http://usac.org/sl/tools/reference/guide-usac-letter-reports.aspx> for more information on each of the fields in the Report. USAC is also sending this information to the service provider for informational purposes. If USAC has determined the service provider is also responsible for any rule violation on these FRN(s), a separate letter will be sent to the service provider detailing the necessary service provider action. The Report explains the exact amount the applicant is responsible for repaying.

Schools and Libraries Division
Universal Services Administrative Company

cc: David Ivey
Computer Sciences Corporation

Funding Disbursement Recovery Report
for Form 471 Application Number: 771989

Funding Request Number: 2221697
Services Ordered: INTERNET ACCESS
SPIN: 143024093
Service Provider Name: Computer Sciences Corporation
Contract Number: C00910050
Billing Account Number:
Site Identifier: 198892
Funding Commitment: \$1,601,548.24
Funds Disbursed to Date: \$1,059,371.97
Funds to be Recovered from Applicant: \$2,082.00

Disbursed Funds Recovery Explanation:

During an audit it has been determined that funds were improperly disbursed for this funding request. Services were installed or delivered to Alabama School of Fine Arts, BEN 39157 and Alabama School of Math and Science, BEN 40452. Portions of these entities are ineligible to receive E-rate discounts. FCC rules require that discounts are to be provided only to entities eligible to receive funding. During an audit it was determined that Internet Access services were provided to these entities that have residential areas within their schools. Services to residential facilities are not eligible. Since services were delivered to an ineligible entity, the program rules have been violated. Accordingly, USAC will seek recovery of \$2,082.00 of improperly disbursed funds from the applicant.

Funding Request Number: 2221705
Services Ordered: INTERNET ACCESS
SPIN: 143024093
Service Provider Name: Computer Sciences Corporation
Contract Number: C00910050
Billing Account Number:
Site Identifier: 198892
Funding Commitment: \$858,753.15
Funds Disbursed to Date: \$798,710.11
Funds to be Recovered from Applicant: \$1,570.00

Disbursed Funds Recovery Explanation:

During an audit, it has been determined that funds were improperly disbursed for this funding request. Services were installed or delivered to Alabama School of Fine Arts, BEN 39157 and Alabama School of Math and Science, BEN 40452. Portions of these entities are ineligible to receive E-rate discounts. FCC rules require that discounts are to be provided only to entities eligible to receive funding. During an audit it was determined that Internet Access services were provided to these entities that have residential areas within their schools. Services to residential facilities are not eligible. Since services were delivered to an ineligible entity, the program rules have been violated. Accordingly, USAC will seek recovery of \$1,570.00 of improperly disbursed funds from the applicant.

Exhibit 2

AFFIDAVIT

I, Kim Carroll, hereby declare and affirm that the following statements are true and correct.

1. I am over 18 years of age and competent to testify to the matters described herein.
2. I am employed by the Alabama Supercomputer Authority ("ASA"). My title is Chief Fiscal Officer.
3. ASA operates the statewide Alabama Research and Education Network ("AREN").
4. AREN provides a base level of Internet access for free to all public K-12 schools in the state of Alabama.
5. For E-rate Funding Year 2011 ("FY 2011"), ASA as the consortium lead and billed entity applied for and received E-rate discounts on the cost of providing Internet access to all public schools in the state of Alabama. On behalf of ASA, I prepared and filed the application.
6. In FY 2011, the Alabama School of Fine Arts ("ASFA") and the Alabama School of Math and Science ("ASMS") were among the schools that received E-rate discounted, base-level Internet access via AREN. Both schools have residential areas.
7. The base-level Internet access that ASFA and ASMS received in FY 2011 was the minimum amount that each school required to provide reasonably robust Internet access to the eligible areas of their respective schools for instructional and other educational purposes.
8. If ASFA and ASMS students could not access the Internet from the residential area of their school via the same local area network that provided Internet access elsewhere on school property, both schools still would have required the exact same amount of base-level Internet connectivity via AREN.
9. For FY 2011, the prediscount cost of providing base-level, Internet access to ASFA and ASMS was the same at each school -- \$17,977.
10. If it had been impossible to access this base-level of service from the residential areas of ASFA and ASMS, the prediscount cost to each school for the base-level of Internet access required at each school would have been exactly the same -- \$17,977.
11. Therefore, in FY 2011, the incremental cost of providing Internet access via AREN to the residential areas of ASFA and ASMS was zero.

Kim Carroll
SIGNATURE

12/11/2014
DATE

WITNESS:

Signature: Debra Wallace

Print Name: Debra Wallace

Date: 12/11/14

Exhibit 3

To: Mel Blackwell, Vice President, Schools and Libraries Division

From: Wayne Scott, Vice President, Internal Audit Division

Date: August 21, 2014

**Re: Independent Auditor's Report on Alabama Supercomputer Authority's
Compliance with Schools and Libraries Support Mechanism Rules (USAC Audit
No. SL2013BE015)**

Introduction

The Universal Service Administrative Company (USAC) Internal Audit Division (IAD) performed an audit of Alabama Supercomputer Authority (Beneficiary), Billed Entity Number (BEN) 198892, for compliance with the regulations and orders governing the Schools and Libraries Support Mechanism, set forth in 47 C.F.R. Part 54, as well as other program requirements (collectively, the Rules). Compliance with the Rules is the responsibility of the Beneficiary's management. USAC IAD's responsibility is to express a conclusion on the Beneficiary's compliance with the Rules based on our audit.

The Beneficiary is a consortium leader located in Montgomery, Alabama with schools and school district members that serve over 743,000 students and library members that serve over 350,000 patrons.

Purpose and Scope

The purpose of our audit was to determine whether the Beneficiary complied with the Rules. We conducted this performance audit in accordance with Generally Accepted Government Auditing Standards (GAGAS) issued by the Comptroller General of the United States (2011 Revision).¹ Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our objectives.² Our audit included examining, on a test basis, evidence supporting the competitive bidding process undertaken to select a service provider, data used to calculate the discount percentage and the type and amount of services received, as well as performing other procedures we considered necessary to form a conclusion. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our objectives.

¹ See U.S. Government Accountability Office, *Government Auditing Standards*, GAO-12-331G, § 6.56 (Rev. Dec. 2011).

² See *id.*

The following chart summarizes the Schools and Libraries Program support amounts committed and disbursed to the Beneficiary for Funding Year 2011 (audit period):

Service Type	Amount Committed	Amount Disbursed
Internet Access	\$8,172,933	\$5,930,178
Total	\$8,172,933	\$5,930,178

Note: The amounts committed and disbursed reflect funding year activity as of the commencement of the audit.

The committed total represents two FCC Form 471 applications with 291 Funding Request Numbers (FRNs). We selected seventeen FRNs, which represent \$2,978,191 of the funds disbursed during the audit period, to perform the procedures enumerated below with respect to the Funding Year 2011 applications submitted by the Beneficiary.

Our procedures were performed to determine whether the Beneficiary complied with the Rules. For the purposes of this report, a finding is a condition that shows evidence of noncompliance with the Rules.

Conclusion

USAC IAD concludes that the Beneficiary was generally compliant with the Rules for the period examined. Our examination disclosed two findings. A summary of the procedures and results are included below.

Findings

- Beneficiary requested and received Schools and Libraries Program support for Internet access services delivered to partially ineligible locations.
- Failure to comply with Children's Internet Protection Act (CIPA) requirements.

Exceptions Taken and Recovery Action

Findings	Monetary Effect of Finding	USAC Management Recovery Action
#1 – Beneficiary requested and received Schools and Libraries Program support for Internet access services delivered to partially ineligible locations.	\$3,652	\$3,652
#2 – Failure to comply with CIPA requirements.	\$0	\$0
Total Net Monetary Effect	\$3,652	\$3,652

Audit Procedures, Findings, and Responses

A. Application Process

We obtained an understanding of the Beneficiary's processes relating to the Schools and Libraries Program. Specifically, we examined documentation to support its effective use of funding and that adequate controls exist to determine whether funds were used in accordance with the Rules. We used inquiry and direct observation to determine whether the Beneficiary was eligible to receive funds and had the necessary resources to support the services for which funding was requested. We also used inquiry to obtain an understanding of the process the Beneficiary used to calculate its discount percentage and validated its accuracy.

We obtained and examined documentation to determine whether the Beneficiary complied with the Schools and Libraries Program Children's Internet Protection Act (CIPA) requirements. Specifically, we obtained and evaluated the Beneficiary's Internet Safety Policy. We obtained an understanding of the process by which the Beneficiary communicated and administered the policy.

B. Competitive Bid Process

We obtained and examined documentation to determine whether all bids received were properly evaluated and price of the eligible goods and services was the primary factor considered. We also obtained and examined evidence that the Beneficiary waited the required 28 days from the date the FCC Form 470 was posted on USAC's website before signing a contract with the selected service provider. We reviewed the service provider contract to determine whether it was properly executed.

C. Invoicing Process

We obtained and examined invoices for which payment was disbursed by USAC to determine whether the services identified on the FCC Form 474 Service Provider Invoices (SPIs) and corresponding service provider bills were consistent with the terms and specifications of the service provider agreement. We also examined documentation to determine whether the Beneficiary paid its non-discounted share in a timely manner.

D. Site Visits

We performed a site observation to evaluate the location and use of services to determine whether it was delivered and installed, located in eligible facilities, and utilized in accordance with the Rules. We evaluated whether the Beneficiary had the necessary resources to support the services for which funding was requested. We also evaluated the services purchased by the Beneficiary for cost effectiveness to determine whether funding was used in an effective manner.

E. Technology Plan

We obtained an understanding of the Beneficiary's technology planning process and examined the applicable technology plan to determine whether it met the criteria set

forth in the Rules and examined documentation to determine whether it was approved by an independent entity certified by USAC.

F. Reimbursement Process

We obtained and examined invoices submitted for reimbursement for the services delivered to the Beneficiary and performed procedures to determine whether USAC was invoiced properly. Specifically, we reviewed invoices associated with the SPI forms for services provided to the Beneficiary. We verified that the services identified on the SPI forms and corresponding service provider bills were consistent with the terms and specifications of the service provider agreement and eligible in accordance with the Schools and Libraries Program Eligible Services List.

Our audit findings, as well as the responses to the findings, are provided below. We have evaluated the validity of the Beneficiary's responses to our findings and our position on these issues remains unchanged.

Finding #1
Beneficiary Requested and Received Schools and Libraries Program Support for Internet Access Services Delivered to Partially Ineligible Locations

Criteria

1. “An eligible school, library, or consortium that includes an eligible school or library seeking to receive discounts for eligible services under this subpart, shall, upon signing a contract for eligible services, submit a completed FCC Form 471 to the Administrator.” 47 C.F.R. § 54.504(c) (2010).
2. “The services the applicant purchases at discounts will be used solely for educational purposes...” 47 C.F.R. § 54.504(b)(2)(v) (2010).
3. “We adopt our proposal to allow residential schools that serve unique populations – schools on Tribal lands; schools designed to serve students with medical needs; schools designed to serve students with physical, cognitive or behavioral disabilities; schools where 35 percent or more of their students are eligible for the national school lunch program; or juvenile justice facilities – to receive E-rate funding for all supported services provided in the residential areas of those schools.” *In the Matter of Schools & Libraries Universal Service Support Mechanism, A National Broadband Plan for Our Future*, CC Docket No. 02-6, GN Docket No. 09-51, Sixth Report and Order, FCC 10-175, 25 FCC Rcd 18762, 18778, ¶ 31 (2010) (*Sixth Report and Order*).
4. “Use of services and facilities funded by E-rate for non-educational purposes would not be an eligible use, and schools are required to reduce their funding request by the proportion of the total use of the services and facilities that is ineligible.” *Sixth Report and Order*, 25 FCC Rcd at 18773, ¶ 20.

Condition

IAD examined documentation and performed a physical inspection of buildings that received supported Internet access services to determine whether the locations listed in Block 4 on the Beneficiary’s FCC Form 471, Application No. 771989 were eligible to receive Schools and Libraries Program (SLP) funding. During IAD’s physical inspection of one facility, the Alabama School of Fine Arts, IAD observed the utilization of supported Internet access services on all three floors of the building. While two floors of the building contained classrooms and school administrative offices, one floor contained residential dormitories. During the audit, the Beneficiary also informed IAD that supported Internet access services were utilized in the residential dormitories at the Alabama School of Math and Science.¹ The Beneficiary further informed IAD that the buildings at the Alabama School of Math and Science contain 182,697 square feet, of which 63,755 square feet are the residential dormitories.

IAD examined the documentation and inquired of the Beneficiary, and determined that these two locations do not serve the types of unique populations of students indicated in

¹ Email from Kim Carroll, received May 5, 2014.

the *Sixth Report and Order* to be eligible to receive SLP funded support in the residential areas of the schools (criteria 3 to 4). Therefore, the residential areas of these two locations are not eligible to receive SLP supported services and the Beneficiary should have reduced its funding request by the proportion of the total use of the services that was ineligible (criteria 1 to 2).

For each location, the Beneficiary provided IAD with its cost allocation for the proportion of the supported Internet access services that were used by the ineligible residential areas at Alabama School of Fine Arts and at Alabama School of Math and Science. The discounted cost of the supported Internet access services provided to the ineligible residential areas for both locations is as follows:

	Alabama School of Fine Arts	Alabama School of Math and Science
Total Area That Received Supported Services	3 Floors	182,697 square feet
Ineligible Residential Area	1 Floor	63,755 square feet
Percent of Total Area Determined to be Ineligible Residential Area	33.33%	34.90%
Pre-discounted Cost of Services Received	\$17,977	\$17,977
Allocated Pre-discounted Costs of Supported Services Provided to Ineligible Residential Area	\$5,992	\$6,274
Discount Percentage	40%	20%
Discounted Cost of Services Provided to Ineligible Residential Area	\$2,397	\$1,255

Cause

The Beneficiary did not demonstrate sufficient knowledge of the Rules governing the eligibility of residential areas of schools.

Effect

The monetary effect of this finding is \$3,652. This amount represents the portion of funds disbursed for the Internet access services requested and received at ineligible residential areas for FRNs 2221697 (\$2,082) and 2221705 (\$1,570).

Recommendation

IAD recommends USAC management seek recovery of \$3,652. The Beneficiary must implement controls and procedures to ensure that it reduces its funding requests by the proportion of the total use of the services and facilities that is ineligible to receive SLP support.

Beneficiary Response

The Beneficiary **sought and received support, *only* for eligible Priority 1 Internet access services to eligible locations** including Alabama School of Fine Arts (ASFA) and Alabama School of Math and Science (ASMS). Support requested and received at these two locations was for basic conduit access to the Internet, or Priority 1 services as defined in the Funding Year 2011 Eligible Services List (FY2011 ESL). All funded and provided services were provided to a single demarcation point at ASFA and a single demarcation point at ASMS.

The Beneficiary ***did not*** seek or receive support, or receive services for internal connections (Priority 2) services, defined in the FY2011 ESL as “components located at the applicant site that are necessary to transport information to classrooms, publicly accessible rooms of a library, and to eligible administrative areas or buildings.” The Beneficiary ***did not*** seek or receive support, or receive services of connections within, between or among buildings or floors at the ASFA or the ASMS.

By examination of the Code of Federal Regulations (C.F.R.) and FCC documents cited above, the Beneficiary Authority asserts that all rules governing the eligibility of all services supported and provided to ASFA and ASMS were followed and notes the following exceptions to the IAD’s response:

Cited Criteria 1

“An eligible school, library, or consortium that includes an eligible school or library seeking to receive discounts for eligible services under this subpart, shall, upon signing a contract for eligible services, submit a completed FCC Form 471 to the Administrator.” 47 C.F.R. § 54.504(c) (2010).

Exception – Cited Criteria 1

This citation for this reference was revised by the *Sixth Report and Order* and should read:

“An eligible school, library, or consortium that includes an eligible school or library seeking to receive discounts for eligible services under this subpart, shall, upon signing a contract for eligible services, submit a completed FCC Form 471 to the Administrator.” 47 C.F.R. § 54.504(a) (2010).

Effect – Cited Criteria 1

No effect noted

Cited Criteria 2

“The services the applicant purchases at discounts will be used ***solely*** for educational purposes [emphasis added]” 47 C.F.R. § 54.504(b)(2)(v) (2010).

Exception – Cited Criteria 2

The citation for this reference is incorrect. The IAD references a citation in the Background section of the order and the correct citation should be 47 C.F.R. § 54.504(b)(2)(v) (2009).

This cited reference was revised by the *Sixth Report and Order* and should read:

“The services the school, library, or consortium purchases at discounts will be used *primarily* for educational purposes [emphasis added]” 47 C.F.R. § 54.504(a)(1)(vii) (2010).

The *Sixth Report and Order* enabled schools that receive funding from the E-rate program to allow the general public to use the schools’ Internet access during non-operating hours. Prior to the *Sixth Report and Order*, the Federal Communications Commission (FCC) limited use of E-rate services outside of school hours. In the *Sixth Report and Order*, the Commission revised sections 54.503 and 54.504 of the rules to require certification that “the services the applicant purchases at discounts will be used *primarily* for educational purposes.”¹ The Commission goes on to note that “schools must primarily use services funded under the E-rate program, in the first instance, for educational purposes. To primarily use services supported by E-rate, E-rate recipients must ensure that students always get first priority in use of the schools’ resources.”²

The Commission continues to state that “schools are in the best position to establish their own individualized policies”³ and some schools may find that school activities utilize all or almost all of the E-rate supported services... We therefore stress the optional nature of these rule revisions, leaving this decision up to individual recipients of E-rate funding.”⁴

Effect – Cited Criteria 2

Funded services provided to ASFA and ASMS are used primarily for educational purposes and meet the requirement of 47 C.F.R. § 54.504(a)(1)(vii) (2010).

Cited Criteria 3

“We adopt our proposal to allow residential schools that serve unique populations – schools on Tribal lands; schools designed to serve students with medical needs; schools designed to serve students with physical, cognitive or behavioral disabilities; schools where 35 percent or more of their students are eligible for the national school lunch program; or juvenile justice facilities – to receive E-rate funding for all supported

¹ *In the Matter of Schools & Libraries Universal Service Support Mechanism, A National Broadband Plan for Our Future*, Sixth Report and Order, CC Docket No. 02-6, GN Docket No. 09-51, FCC 10-175, 25 FCC Rcd 18762, 18778, ¶ 22 (2010) (*Sixth Report and Order*).

² *Id.*

³ *Id.*, ¶ 25

⁴ *Id.*, ¶ 27

services provided in the residential areas of those schools.” *In the Matter of Schools & Libraries Universal Service Support Mechanism, A National Broadband Plan for Our Future, Sixth Report and Order*, CC Docket No. 02-6, GN Docket No. 09-51, FCC 10-175, 25 FCC Rcd 18762, 18778, ¶ 31 (2010) (*Sixth Report and Order*).

Exception – Cited Criteria 3

Prior to the *Sixth Report and Order*, support was only provided for internal connections in classrooms or instructional buildings. The *Universal Service Fourth Order on Reconsideration* modified existing rules to reflect that E-rate support is “not available for **internal connections** in non-instructional buildings used by a school district unless those internal connections are essential for the effective transport of information within instructional buildings [emphasis added].”¹ In this order the Commission defined internal connections as “connections between or among multiple instructional buildings that comprise a single school campus or multiple non-administrative buildings that comprise a single library branch, but do not include connections that extend beyond that single school campus or library branch.”²

Following these orders, support for **internal connections** to dormitories and residential areas were found to be ineligible [emphasis added]. In the *Anderson School Order*, the Commission found Anderson’s classrooms contained in buildings physically separated from the 21 residential dormitory buildings, and the internal connections to the residential dormitory buildings not necessary for the effective transport of information to Anderson’s classrooms.³

It is important to note that Priority 1 Internet Access services provided to non-instructional facilities located on a school or library property have been eligible for support under the definition of Educational Purposes beginning with Funding Year 2004.⁴ Likewise, it is important to note that the SLD denied the funding to Anderson School because they sought support in a single funding request for internal connections (Priority 2) to non-instructional buildings of a school.⁵ In response to an appeal, the SLD affirmed its decision, stating that a significant portion of the funding request includes a request for wiring and equipment in dorm facilities that are ineligible to receive funding based on program rules.⁶ The

¹ *Universal Service Fourth Order on Reconsideration*, 13 FCC Rcd at 5440, para. 210; see also 47 C.F.R. § 54.506(a).

² *Id*

³ *Request for Review by Anderson School, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-133664, CC Docket Nos. 96-45 and 97-21, Order, 15 FCC Rcd 25610, 25612, ¶ 7

⁴ Universal Services Administrative Company, Schools and Libraries. *Non-Instructional Facilities*, Retrieved from <http://www.usac.org/sl/applicants/beforeyoubegin/non-instructional-facilities.aspx>

⁵ *Request for Review by Anderson School, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-133664, CC Docket Nos. 96-45 and 97-21, Order, 15 FCC Rcd 25610, 25612, ¶ 3

⁶ *Id* ¶ 4

SLD’s decision was subsequently upheld by the Commission.¹

The *E-rate Broadband NPRM* proposed reforms that included “expanding the reach of broadband in residential schools that serve populations facing unique challenges, such as Tribal schools or schools for children with physical, cognitive, or behavioral disabilities;”²

In the *Sixth Report and Order*, the Commission expanded access to residential schools that serve unique populations. This allowed the residential areas of schools that meet the unique challenges to become eligible for E-rate services for internal connections. The Commission amended section 54.502 to “**permit discounts for internal connections** in non-instructional buildings of a school or school district where the Commission has found that the use of those services meets the definition of educational purpose [emphasis added].”³

Effect – Cited Criteria 3

Funding for internal connection services was not sought or provided to ASFA and ASMS. All funded and provided services were provided to a single demarcation point at ASFA and a single demarcation point at ASMS, and are therefore, eligible Priority 1 services.

The intent of the *E-rate Broadband NPRM* and the *Sixth Report and Order* in addressing “Expanding Access for Residential Schools that Serve Unique Populations” was just that, to *expand* current access for internal connections to a unique population [emphasis added].^{4 5} These rule modifications seek to include rather than exclude.

The *Anderson School Order* is not applicable to this situation as Anderson sought funds for internal connections to residential buildings that were physically separated from Anderson’s classrooms.⁶ Funding sought and received for ASFA and ASMS was for Priority 1 services to an instructional building.

Finally, the Commission states that as a result of the changes made in the *Sixth Report and Order*, “schools and libraries throughout the country can make their

¹ *Id* ¶ 8

² *E-rate Broadband NPRM*, 25 FCC Rcd at 6895-96, ¶ 9

³ *In the Matter of Schools & Libraries Universal Service Support Mechanism, A National Broadband Plan for Our Future*, Sixth Report and Order, CC Docket No. 02-6, GN Docket No. 09-51, FCC 10-175, 25 FCC Rcd 18762, 18778, ¶ 31 (2010) (*Sixth Report and Order*).

⁴ *E-rate Broadband NPRM*, 25 FCC Rcd at 6895-96, ¶ 9

⁵ *In the Matter of Schools & Libraries Universal Service Support Mechanism, A National Broadband Plan for Our Future*, Sixth Report and Order, CC Docket No. 02-6, GN Docket No. 09-51, FCC 10-175, 25 FCC Rcd 18762, 18778, ¶ 31 (2010) (*Sixth Report and Order*). ¶ 28

⁶ *Request for Review by Anderson School, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-133664, CC Docket Nos. 96-45 and 97-21, Order, 15 FCC Rcd 25610, 25612, ¶ 7

limited dollars go further. The changes we adopt will increase the ability of students and the public to utilize broadband services for educational needs.”¹

Given, the intent of the Commission in adopting much of the *National Broadband Plan* into the *Sixth Report and Order*, the Beneficiary strongly asserts that prohibiting student access to broadband services, funded under Priority 1 to an eligible instructional building simply because a residential area happens to be in that same building (ASFA), would be contrary to the intent of the Commission and the spirit of E-rate.

Equally, the Beneficiary strongly asserts that prohibiting student access to broadband services, funded under Priority 1 to an eligible instructional building simply because a residential area happens to also be on the school property (ASMS), would be contrary to the intent of the Commission and the spirit of E-rate.

In both of these cases, it is imperative to note that regulations cited are referring to funds sought for connections of services specifically and directly to the residential areas and no funds were sought for such by the Beneficiary.

Cited Criteria 4

“Use of services and facilities funded by E-rate for non-educational purposes would not be an eligible use, and schools are required to reduce their funding request by the proportion of the total use of the services and facilities that is ineligible.” *Sixth Report and Order*, 25 FCC Rcd at 18773, ¶ 20.

Exception – Cited Criteria 4

The reference cited was only referenced as Background information in the *Sixth Report and Order*.²

The *Code of Federal Regulations*, § 54.500(b) defines educational purposes as follows: “activities that are integral, immediate, and proximate to the education of students, or in the case of libraries, integral, immediate and proximate to the provision of library services to library patrons, qualify as “educational purposes.” Activities that occur on library or school property are presumed to be integral, immediate, and proximate to the education of students or the provision of library services to library patrons.”³

¹ *In the Matter of Schools & Libraries Universal Service Support Mechanism, A National Broadband Plan for Our Future*, Sixth Report and Order, CC Docket No. 02-6, GN Docket No. 09-51, FCC 10-175, 25 FCC Rcd 18762, 18778, ¶ 5 (2010) (*Sixth Report and Order*).

² *In the Matter of Schools & Libraries Universal Service Support Mechanism, A National Broadband Plan for Our Future*, Sixth Report and Order, CC Docket No. 02-6, GN Docket No. 09-51, FCC 10-175, 25 FCC Rcd 18762, 18778, ¶ 20 (2010) (*Sixth Report and Order*).

³ 47 C.F.R. § 54.500(b).

The Schools and Libraries Eligible Services List for Funding Year 2011 defines eligible users and locations in an identical manner: “Activities that are integral, immediate, and proximate to the education of students or the provision of library services to patrons, qualify as ‘educational purposes’ The presumption is that activities on school or library property meet this standard.”¹

Effect – Cited Criteria 4

All funded services provided to ASFA and ASMS were eligible services at eligible locations for educational purposes.

Beneficiary Recommendation:

Only eligible Priority 1 Internet access services were funded and provided to a single demarcation point at the ASFA instructional facility and at the ASMS instructional facility.

“The National Broadband Plan (NBP), issued on March 16, 2010, recommended that the Commission take a fresh look at the E-rate program and identify potential improvements to reflect changes in technology and evolving teaching methods used by schools.”² In May 2010, the Commission issued a Notice of Proposed Rulemaking seeking public comment on proposals to ensure that the E-rate program continues to help our children and communities prepare for the high-skilled jobs of the future and reap the full benefits of the Internet.”³ In the *Sixth Report and Order*, the Commission adopted a number of the proposals put forward in the *E-rate Broadband NPRM*.

In the NPRM, the Commission proposed reforms that included “[S]upporting 24/7 online learning by eliminating the current rule that requires schools to allocate the cost of wireless Internet access service between funded, in-school use and non-funded uses away from school premises.”⁴

While no funds were sought and no Priority 2 wireless services were provided to ASFA and ASMS, it must be noted that the Commission proposed reforms to support 24/7 online learning. Deeming Priority 1 services on the residential floor of an instructional facility ineligible is notably contrary to the Commission’s goals in the *Sixth Report and Order* and the *NPRMs* leading up to the release of the Order.

¹ Universal Services Administrative Company, Schools and Libraries. *Eligible Service List School and Library Support Mechanism for Funding Year 2001*, Retrieved from http://www.usac.org/res/documents/sl/pdf/ESL_archive/EligibleServicesList_110910.pdf

² Federal Communications Commission, *Connecting America: The National Broadband Plan*, (rel. Mar. 16, 2010) (National Broadband Plan or NBP), available at http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-296935A1.pdf (last visited Sept. 20, 2010).

³ *Schools and Libraries Universal Service Support Mechanism, A National Broadband Plan for our Future*, CC Docket No. 02-6, GN Docket No. 09-51, Notice of Proposed Rulemaking, 25 FCC Rcd 6872 (2010) (*E-rate Broadband NPRM*), ¶ 9

⁴ *Id.* ¶ 3

“Access to broadband at key anchor institutions, including schools and libraries, is a critical component of enabling everyone in this country to develop the digital skills they need to prosper in the 21st century, as important functions of everyday life – including applying for jobs, interacting with federal, state and local government agencies, and searching for health-related information — increasingly migrate online. Broadband is also an important tool to help educators, parents and students meet challenges in education. The long-term success of our workforce and our country depend upon improving learning for both K-12 students and adults. With broadband, students and teachers can expand instruction beyond the confines of the physical classroom and the traditional school day. Broadband can provide more customized learning opportunities, enabling students and adults to access high-quality, low-cost and personally relevant educational materials. Broadband can also improve the flow of educational information, allowing teachers, parents and organizations to make better decisions tied to each student’s needs and abilities. Simply put, broadband can enable new ways of teaching and learning, as well as new ways for individuals to interact with government institutions.”¹

Lastly, in the *Sixth Report and Order*, the Commission affirms its commitment to keeping the E-rate program in sync with modern needs and technological capabilities and **“recognizes that technology has the potential to facilitate learning outside the classroom walls and beyond regular school hours.** Through this order and future upgrades, the Commission is taking a measured approach to modernizing the E-rate program [emphasis added].”²

IAD Response

The Beneficiary states in its response that the residential areas of the Alabama School of Fine Arts (ASFA) and the Alabama School of Math and Science (ASMA) were eligible to receive SLP supported services. However, neither school serves a unique population, as defined in the *Sixth Report and Order* (criterion 3). Therefore, the residential areas of these schools are not eligible to receive SLP supported services and the Beneficiary was required to cost-allocate the proportion of the total use of the supported Internet access services and facilities for the ineligible residential areas of both schools (criterion 4).

The Beneficiary states in its response that “[t]he Beneficiary sought and received support, *only* for eligible Priority 1 Internet access services to eligible locations....” IAD does not dispute the Beneficiary’s assertion that it sought and received *only* Internet access services. However, in the *Sixth Report and Order*, the Commission adopted rules to allow residential schools that serve certain unique populations to receive E-rate funding for all supported services provided to residential areas of those schools “including, Internet access, telecommunications, telecommunications services, and internal

¹ *Schools and Libraries Universal Service Support Mechanism, A National Broadband Plan for our Future*, CC Docket No. 02-6, GN Docket No. 09-51, Notice of Proposed Rulemaking, 25 FCC Rcd 6872 (2010) (*E-rate Broadband NPRM*), ¶ 2

² *Sixth Report and Order*, 25 FCC Rcd at 18778, ¶ 3.

connections.”¹ The *Sixth Report and Order* applies to Priority 1 and Priority 2 services and does not indicate that Priority 1 services are eligible in residential areas of schools. To the contrary, the *Schools and Libraries Eligible Services List for Funding Year 2011* clarifies that “[t]elephone services that connect to a residential facility or home, except as allowed by the Commission in FCC 10-175 for the residential areas of residential schools that serve unique populations” are ineligible for E-rate funding. Thus, it is clear that the *Sixth Report and Order* established criteria for determining eligibility in residential areas of schools for both Priority 1 and Priority 2 services.² Therefore, IAD disagrees with the Beneficiary’s statement that all of the requested services were provided to eligible locations.

IAD agrees that the Commission’s revised rules set forth in the *Sixth Report and Order* became effective on January 3, 2011 and were not reflected in the Code of Federal Regulations until the October 1, 2011 annual edition was released.³ However, the rule revisions that the Beneficiary references: (1) changing § 54.504(c) to 54.504(a) and (2) changing “primarily” in 47 C.F.R. § 54.504(a)(1)(vii) (formerly 54.504(b)(2)(v)) to “solely” do not impact the finding. As explained above, neither school serves a unique population as defined in the *Sixth Report and Order*, therefore, the residential areas of these schools were not eligible to receive supported services under the revised rules (criterion 3).

The Beneficiary states in its response that “[f]unded services provided to ASFA and ASMS are used primarily for educational purposes.” IAD agrees with the Beneficiary’s response as it relates to the services provided within eligible areas of ASFA and ASMS. While non-residential areas of both schools may use the supported Internet Access services primarily for educational purposes, as noted above, because neither school serves a unique population as defined in the *Sixth Report and Order*, the residential areas of these two schools are not eligible for support (criterion 3). The residential areas of ASFA and ASMS do not meet the criteria adopted in the *Sixth Report and Order* for these residential areas to be eligible and do not contain any classrooms or instructional areas. Therefore, IAD disagrees with the Beneficiary’s assertion that the services provided to the residential areas of these schools are used primarily for educational purposes.

The Beneficiary also states in its response “that Priority 1 Internet Access services provided to non-instructional facilities located on a school or library property have been eligible for support under the definition of Educational Purposes.” Although non-instructional facilities located on school property are eligible to receive SLP-supported Priority 1 services if the usage of the supported services satisfies the definition of

¹ *In the Matter of Schools & Libraries Universal Service Support Mechanism, A National Broadband Plan for Our Future*, Sixth Report and Order, CC Docket No. 02-6, GN Docket No. 09-51, FCC 10-175, 25 FCC Rcd 18762, 18778, ¶ 31 (2010) (*Sixth Report and Order*).

² *Schools and Libraries Eligible Services List for Funding Year 2011*, at 5 (Sept. 2010).

³ See <http://www.gpo.gov/fdsys/pkg/CFR-2011-title47-vol3/pdf/CFR-2011-title47-vol3-sec54-504.pdf>.

“educational purposes” in the Rules, the residential areas of a school that does not serve a unique population are not considered non-instructional facilities (criterion 3).¹

IAD disagrees with the Beneficiary’s assertion that IAD’s recommendation to recover “prohibit[s] student access to broadband services, funded under Priority 1 to an eligible instructional building simply because a residential area” happens to be in the same building or on the school property. Because neither school serves a unique population as defined in the *Sixth Report and Order*, the residential areas of these two schools are not eligible to receive SLP-supported services (criterion 3). IAD’s recommendation is to recover funds disbursed to the Beneficiary only for the proportion of the facilities that was ineligible to receive funding in accordance with the Rules (criterion 4). In its response, the Beneficiary states that criterion 4 “*was only referenced as Background information in the Sixth Report and Order.*” IAD disagrees with this statement as the language cited in criterion 4 is consistent with the Rules, which state “[a] request for discounts for a product or service that includes both eligible and ineligible components must allocate the cost of the contract to eligible and ineligible components.”²

IAD also disagrees with the Beneficiary’s statement that “[d]eeming Priority 1 services on a residential floor of an instructional facility ineligible is notably contrary to the Commission’s goals in the *Sixth Report and Order* and the *NPRMs* leading up to the release of the Order.” As explained above, the Commission adopted rules to allow residential schools “that serve unique populations,” as defined in the *Sixth Report and Order*, to receive E-rate funding (criterion 3). The Commission in the Order clarified that “we limit funding to only those residential schools that serve unique populations.”³ The Beneficiary has not demonstrated that ASFA and ASMS serve a unique population that would allow the residential areas of these schools to be eligible for SLP funding (criterion 3).

For the reasons above, IAD’s position on this finding remains unchanged.

USAC Management Response

IAD examined documentation and conducted a physical inspection of buildings that received SLP-supported Internet Access services to determine whether the locations listed in Block 4 on the Beneficiary’s FCC Form 471, Application No. 771989 were eligible to receive SLP funding. During the physical inspection of the Alabama School of Fine Arts, IAD observed the utilization of supported Internet access services on all three floors of the building. While two floors of the building contained classrooms and school administrative offices, one floor contained residential dormitories. The Beneficiary also informed IAD that SLP-supported Internet access services were also utilized in the residential dormitories at the Alabama School of Math and Science. The

¹ Pursuant to the Rules, educational purposes include “activities that are integral, immediate and proximate to the education of students.” 47 C.F.R. § 54.500(b). In adopting the limited exception for residential areas of schools that serve unique populations, the FCC explained that for these schools, the use of supported services would “be primarily, if not exclusively, for educational purposes.” *Sixth Report and Order*, 25 FCC Rcd at 18779, ¶ 31.

² 47 C.F.R. § 54.504(g) (2010).

³ *Sixth Report and Order*, 25 FCC Rcd at 18778, ¶ 32 & n.102.

Beneficiary informed IAD that the buildings at the Alabama School of Math and Science contained 63,755 square feet of residential dormitories.

Upon examining the documentation provided by the Beneficiary, IAD determined the two locations do not serve the types of unique populations of students the Commission found to be eligible to receive SLP funded support in the residential areas of the schools in the *Sixth report and Order*. Therefore, these two locations are not eligible to receive SLP-supported services and the costs of the services provided to the ineligible residential areas of these two schools should have been cost-allocated in the Beneficiary's funding requests.¹ For each location, the Beneficiary provided IAD with its cost allocation for the proportion of the SLP-supported Internet access services that was used by the ineligible residential areas at Alabama School of Fine Arts and at Alabama School of Math and Science. Based on the cost allocation provided by the Beneficiary, USAC will seek recovery of \$3,652.00. USAC management concurs with the finding and recommendation.

¹ *Id.* at 18773, ¶ 20.

Finding #2
Failure to Comply With CIPA Requirements

Criteria

1. “The billed entity for a school that receives discounts for Internet access or internal connections must certify on FCC Form 486 that an Internet safety policy is being enforced.” 47 C.F.R § 54.520(c)(1) (2010).
2. “The Internet safety policy adopted and enforced pursuant to 47 U.S.C. [§] 254(l) must address all of the following issues:
 - (A) Access by minors to inappropriate matter on the Internet and the World Wide Web,
 - (B) The safety and security of minors when using electronic mail, chat rooms, and other forms of direct electronic communications,
 - (C) Unauthorized access, including so-called “hacking” and other unlawful activities by minors online;
 - (D) Unauthorized disclosure, use, and dissemination of personal information regarding minors; and
 - (E) Measures designed to restrict minors’ access to materials harmful to minors.” 47 C.F.R. § 520(c)(1)(ii) (2010).
3. “An elementary or secondary school described in clause (i), or the school board, local educational agency, or other authority with responsibility for administration of the school, shall provide reasonable public notice and hold at least one public hearing or meeting to address the proposed Internet safety policy.” 47 U.S.C. § 254(h)(5)(A)(iii) (2010).
4. “Schools and libraries shall retain all documents related to the application for, receipt, and delivery of discounted telecommunications and other supported services for at least 5 years after the last day of service delivered in a particular Funding Year. Any other document that demonstrates compliance with the statutory or regulatory requirements for the school and libraries mechanism shall be retained as well.” 47 C.F.R § 54.516(a)(1) (2010).
5. “Schools, libraries, and service providers shall produce such records at the request of any representative (including any auditor) appointed by a state education department, the Administrator, the FCC, or any local, state or federal agency with jurisdiction over the entity.” 47 C.F.R. § 54.516(b) (2010).
6. “When the Administrator, or any independent auditor hired by the Administrator, conducts audits of the beneficiaries of the Universal Service Fund, contributors to the Universal Service Fund, or any other providers of services under the universal service support mechanisms, such audits shall be conducted in accordance with generally accepted government auditing standards.” 47 C.F.R. § 54.702(n) (2010).

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7. “We [FCC] note, however, that, in certain instances, although the applicant may not have been in technical compliance, there was substantial compliance with the spirit of CIPA requirements... In this case, recovery is not warranted.” Letter from Dana R. Shaffer, Chief, Wireline Competition Bureau to Scott Barash, Acting Chief Executive Officer, USAC, WC Docket No. 02-6, DA-09-86, 24 FCC Rcd. 417 (Jan. 16, 2009).

Condition

IAD examined documentation to determine whether the Beneficiary complied with the Children’s Internet Protection Act (CIPA) requirements. Based on IAD’s review of the Beneficiary’s consortium members’ Internet safety policies (ISPs), IAD determined that the ISPs for the following members did not address all of the required elements (criteria 1 to 2):

- Blount County School District’s *Internet and Technology Acceptable Use Policy* is missing element E.
- Marion County Board of Education’s *Internet Acceptable Use Policy* is missing element E.
- Muscle Shoals City Public Library’s *Internet Use Policies* is missing elements B, D and E.
- Selma-Dallas County Public Library’s *Computer Policies and Rules* is missing elements B, C and D.
- Sheffield Public Library’s *Rules for Internet Workstations (World Wide Web)* is missing elements C, D and E.

In addition, Blount County School District did not provide documentation to substantiate that a reasonable public notice was given for the public hearing or meeting to discuss its proposed ISP (criterion 3).

IAD is required to conduct its audits in accordance with Generally Accepted Government Auditing Standards (GAGAS), which require auditors to obtain sufficient, appropriate evidence to substantiate audit findings and conclusions (criterion 6).¹ Because the ISPs for the Beneficiary’s members identified above did not contain all of the required elements and Blount County School District did not have sufficient evidence that reasonable public notice was provided for a public hearing or meeting to discuss its proposed ISP, IAD is unable to conclude that these entities were technically compliant with all of the CIPA requirements (criteria 1 to 6). However, because the Beneficiary’s consortium’s members identified above did have ISPs and filters to monitor Internet content, the Beneficiary was in substantial compliance with the spirit of the CIPA requirements (criterion 7).

¹ See also U.S. Government Accountability Office, *Government Auditing Standards*, GAO-12-331G, ¶ 6.56 (Rev. Dec. 2011) (“Auditors must obtain sufficient, appropriate evidence to provide a reasonable basis for their findings and conclusions.”).

Cause

The Beneficiary's consortium members identified above did not demonstrate sufficient knowledge of the Rules governing the CIPA requirements and the elements that must be addressed in the Internet safety policy. In addition, Blount County School District did not have adequate documentation or data retention policies and procedures to ensure records that demonstrate CIPA compliance were properly retained.

Effect

There is no monetary effect associated with this finding. While the Beneficiary may not have been in technical compliance with all of the CIPA requirements, the Beneficiary substantially complied with the spirit of the CIPA requirements.

Recommendation

The Beneficiary's consortium members identified above must revise their current ISPs to ensure that all five elements are addressed in the ISP and provide reasonable public notice and hold at least one public hearing or meeting to address the proposed revised Internet safety policies, as required by the Rules. In addition, Blount County School District must implement controls and procedures to ensure it complies with the CIPA requirements and retains adequate records that demonstrate compliance with the Rules for at least 5 years after the last day of service delivered in a particular Funding Year, as required by the Rules.

Beneficiary Response

The Beneficiary agrees with IAD's finding that the consortium members identified did not demonstrate sufficient knowledge of the Rules governing CIPA requirements and in one case, did not keep adequate documentation that demonstrated CIPA compliance. As indicated, even though the consortium members were not in technical compliance, there was substantial compliance with the spirit of CIPA requirements.

Once notified by IAD of the potential finding, the Beneficiary contacted the consortium members identified and advised them that steps should be taken to become fully CIPA compliant. The following actions will be or have been taken:

Blount County School District – Internet and Technology Acceptable Use Policy is missing element E; documentation to support notice of meeting missing; and document retention requirements.

Blount County School District is in the process of revising its Acceptable Use/Internet Safety Policy to include all the required elements and will hold a Board Meeting on September 8th, 2014, to approve the revised policy. Blount County School District has posted notification of the Board Meeting on its website which provides reasonable notice of the discussion of the revised Acceptable Use/Internet Safety Policy. Blount County School District has stated that they will retain adequate records that demonstrate compliance with the Rules and the 5-year document retention policy.

Marion County Board of Education - Internet Acceptable Use Policy is missing element E.

Marion County School District is in the process of revising its Internet Acceptable Use Policy to include all the required elements and will hold a Board Meeting during September 2014 to approve the revised policy. Marion County School District will post notification of the Board Meeting on its website which provides reasonable notice of the discussion of the revised Internet Acceptable Use Policy. Marion County School District will retain adequate records that demonstrate compliance with the Rules and the 5-year document retention policy.

Muscle Shoals City Public Library - Internet Use Policies is missing elements B, D and E.

Muscle Shoals City Public Library is in the process of revising its Internet Use Policies to include all the required elements and will hold a Board Meeting on September 16, 2014 to approve the revised policy. Muscle Shoals City Public Library will post notification of the Board Meeting on its website which provides reasonable notice of the discussion of its revised Internet Use Policies. Muscle Shoals City Public Library will retain adequate records that demonstrate compliance with the Rules and the 5-year document retention policy.

Selma-Dallas County Public Library – Computer Policies and Rules is missing elements B, C and D.

Selma-Dallas County Public Library revised its Internet Protection Policy and Computer Use Policy to include all the required elements and held a Board Meeting on April 24, 2014, to approve the revised policy. Selma-Dallas County Public Library posted notification of the Board Meeting on its website which provided reasonable notice of the discussion of its revised Internet Protection and Computer Use Policies. Selma-Dallas County Public Library will retain adequate records that demonstrate compliance with the Rules and the 5-year document retention policy.

Sheffield Public Library – Rules for Internet Workstations (World Wide Web) is missing elements C, D and E.

Sheffield Public Library revised its Internet Safety Policy to include all of the required elements and held a Board Meeting on August 19, 2014, to approve the revised policy. Sheffield Public Library posted notification of the Board Meeting on its website which provided reasonable notice of the discussion of its revised Internet Safety Policy. Sheffield Public Library will retain adequate records that demonstrate compliance with the Rules and the 5-year document retention policy.

During July 2014, the Beneficiary provided by email additional information of the Rules governing CIPA requirements to ALL consortium members when distributing the [FCC] *Form 479 Schools and Libraries Universal Service Certification by Administrative Authority to Billed Entity of Compliance with the Children's Internet Protection Act*. This additional information included: elements that must be addressed in

the Internet safety policy; a technology protection measure must be enforced; public notice and hearing/meeting must be posted and held; and document retention policies and procedures to ensure records that demonstrate CIPA compliance are properly retained. The Beneficiary also notified the State E-rate Coordinator by email that some school systems did not demonstrate sufficient knowledge of the rules governing CIPA requirements and one lacked adequate document retention policies and procedures and asked that his future training for Technology Coordinators include remedial training for CIPA compliance. The Beneficiary emailed the Alabama Public Library Service's E-rate support liaison and also asked that any training for libraries include CIPA compliance.

USAC Management Response

IAD examined documentation to determine whether the Beneficiary complied with the CIPA requirements. Based on a review of the Beneficiary's consortium members' ISPs, IAD determined that the ISP for five members did not address all of the required elements. In addition, one member, Blount County School District did not provide documentation to substantiate that reasonable public notice was given for the public hearing or meeting to discuss its proposed ISP. However, because the Beneficiary's consortium members identified above had ISPs and filters to monitor Internet content; the Beneficiary was substantially compliant with the spirit of CIPA requirements.

The Commission clarified that recovery for CIPA related violations not warranted if there is "substantial compliance with the spirit of the CIPA requirements."¹ Therefore, USAC will not seek recovery for this finding. USAC management concurs with the finding, effect, and recommendation.

This concludes the results of our audit. Certain information may have been omitted from this report concerning communications with USAC management or other officials and/or details about internal operating processes or investigations. This report is intended solely for the use of USAC, the Beneficiary, and the FCC and should not be used by those who have not agreed to the procedures and taken responsibility for the sufficiency of those procedures for their purposes. This report is not confidential and may be released to a requesting third party without restriction.

cc: Mr. Chris Henderson, USAC Chief Executive Officer
Mr. David Capozzi, USAC General Counsel

¹ Letter from Dana R. Shaffer, Chief, Wireline Competition Bureau to Scott Barash, Acting Chief Executive Officer, USAC, WC Docket No. 02-6, DA-09-86, 24 FCC Rcd. 417 (Jan. 16, 2009).